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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,942	07/24/2003	Matthew Banet	0307091.0166	9891
35602	7590	09/22/2005	EXAMINER	
STEPHEN C. GLAZIER KIRKPATRICK & LOCKHART LLP 1800 MASSACHUSETTS AVENUE, NW WASHINGTON, DC 20036				ISSING, GREGORY C
ART UNIT		PAPER NUMBER		
				3662

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/625,942	BANET ET AL.
	Examiner Gregory C. Issing	Art Unit 3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 June 2005 and 15 August 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) 56-58 and 61-73 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-55,59 and 60 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20050815.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

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1. Claims 56-58 and 61-73 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/16/2004.
2. This application contains claims drawn to inventions nonelected with traverse in Paper No. 20041216. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-15, 17-55, 59 and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Treyz et al (6,526,335).
5. The rejection is set forth in the previous Office Action.
6. Applicants allege that Treyz et al fail to disclose a microprocessor configured to select a vehicle communication protocol of a host vehicle. Applicants' argument is not directed to showing how Treyz et al fail to disclose such but merely the allegation that he does not teach such. The dependent claims are argued as being allowable on the basis of their dependence on allowable independent claims.
7. The applicants' argument is not convincing. Treyz et al disclose a automobile computer that communicates with numerous devices and facilities including (1) handheld computing devices, such as PDAs, cellular phones, wristwatches, (2) portable computers, such as laptops and notebooks, and (3) remote facilities, such as gas stations, toll booths, drive-through restaurants (10:22-45). Additionally, the automobile computer is configurable so as to provide information via numerous communication services such as e-mail, voice mail, paging services and other messaging and communications services (10:44-54). Furthermore, the communications paths that are used are disclosed as remote wireless links, such as satellite links and terrestrial links (10:55-11:4) as well as local links which use any suitable protocols, such as Bluetooth (11:24-37). Moreover, physical wiring may be used to connect the automobile computer using telephone wires, USB cables, Firewire (IEEE-1394) cables, coaxial cables, buses, twisted pair wires, etc (13:3-11). The communications may utilize one or more of the communications paths simultaneously (12:46-53). It is further shown that it is known that various formats are used to transmit

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and receive associated data (12:54-63). The automobile computer receives sensor data via GPS/DGPS (11:38-55) and may be integrated with a cellular telephone capability (19:50-53). The automobile computer may also interface with any known automobile dedicated electronic control system traditionally associated with a vehicle (16:32-47) including conventional automobile sensors (16:54-17:27). The processor 72 of the automobile computer clearly is configured to select the various communication protocols required for communicating information from within the computer as well as for receiving and transmitting externally since it is taught that simultaneous, unidirectional/bidirectional communication with each of remote satellite links, remote terrestrial links, and local wireless links are all suggested and it would be detrimental for the driver to have to physically select each of the numerous protocols required for transferring information. The applicants' mere allegation that Treyz et al fail to disclose a microprocessor configured to select a vehicle communication protocol is therefore non-persuasive.

8. Claims 1-55, 59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unnold in view of Bouliane.

9. The rejection is set forth in the previous Office Action.

10. Applicants argue that the combination fails to teach the use of a microprocessor configured to select a vehicle communication protocol of a host vehicle, fails to teach a single chipset and fails to teach a single ASIC.

11. The applicants' arguments are not convincing. The applicants fail to show how the processor 114 is not configured to select a vehicle communication protocol. In view of the combination of references, selection of satellite or terrestrial communication link is determined on the basis of coverage range, this is clearly information provided by the microprocessor and not by any user. Thus, it would have been clearly obvious that the CPU/system controller of the combination of Unnold and Bouliane selects the form of transmission and hence configures the positional information to be transmitted according to which transmitter is to be used without manual intervention. Applicants' mere allegation that the combination fails to teach such is not persuasive. Unnold further teaches the integral nature of the device such that the components are inseparable from one another. Thus, the applicants' arguments are not convincing.

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12. Claims 1-55, 59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weisshaar et al in view of Chou, Welles, II et al or Kennedy, III et al.
13. The rejection is set forth in the previous Office Action.
14. Applicants argue that the combination fails to teach the use of a microprocessor configured to select a vehicle communication protocol of a host vehicle, fails to teach a single chipset and fails to teach a single ASIC.
15. As discussed by Weisshaar et al, information may be provided via satellite or terrestrial long range links as well as short range links for transmitting automobile telematics ([0022] and [0025]). In view of the fact that satellite, terrestrial, and local wireless communication links utilize different protocols, it is clear that the connection manager which is part of the processing system of the device, configures the communication interfaces in accordance with achieving optimization of transmission ([0052]-[0061]). Thus, the applicants' argument fails to show how the combination fails to teach the claimed subject matter and rather merely alleges that a limitation is not shown. In view of the trend to minimize electronic components, the use of single chipsets/ASICs is clearly obvious and within the purview of the prior art and the skill of an artisan.
16. Claims 1-55, 59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou in view of Nathanson.
17. The rejection is set forth in the previous Office Action.
18. Applicants argue that the combination fails to teach the use of a microprocessor configured to select a vehicle communication protocol of a host vehicle, fails to teach a single chipset and fails to teach a single ASIC.
19. Applicants' arguments are not convincing since they fail to specify how the combination differs from the claimed subject matter. Applicants merely allege the failure of the prior art to show a microprocessor configured to select a vehicle communication protocol. However, in view of the fact that Chou evaluates communications between the host vehicle and remote services, and selectively controls the form of communication in response thereto, it is deemed that the processor module of Chou meets the scope of the claimed microprocessor for selecting vehicle communication protocol. In view of the

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trend to minimize electronic components, the use of single chipsets/ASICs is clearly obvious and within the purview of the prior art and the skill of an artisan, particularly in relation to the use as an asset tracking device of Chou, designed to be small and unobtrusive.

20. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al in view of Kennedy, III et al, Chou or Welles et al.

21. The rejection is set forth in the previous Office Action.

22. Applicants argue for the same reasons set forth with respect to the independent claim. For the same reasons set forth above regarding the failure of the applicants' arguments to overcome the rejection over Treyz et al alone, the rejection stands.

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is (571)-272-6973. The examiner can normally be reached on Monday - Thursday 6:00 AM- 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarca can be reached on (571)-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory C. Issing
Primary Examiner
Art Unit 3662

gci